

law requires the whistle of the engine to be sounded more than eighty rods away (which was done near another crossing more than eighty rods distant), and that the evidence shewed that the bell was not rung for the latter crossing, is erroneous, and entitles the railway company to a new trial, where the failure to ring the bell was the only negligence on which a verdict for the plaintiff could be sustained, and the jury stated that they "believed that the bell was not ringing continuously," such answer being too ambiguous to sustain the verdict.

*D. L. McCarthy*, K.C., for appellants. *W. Leidlaw*, K.C., and *E. H. Cleaver*, for plaintiff, respondent.

## Province of Manitoba.

### COURT OF APPEAL.

Howell, C.J.M., Richards, Perdue, Cameron,  
and Haggart, J.J.A.]

[14 D.L.R. 298.

RE ALARIE AND FRECHETTE.

#### 1. *Mortgage—Enforcement—Mortgage under Torrens system.*

The court will not direct the registration of a final order of foreclosure made in a court proceeding as under the old registry system against lands in Manitoba subject to the Torrens system of title registration, upon a mortgage made under sec. 99 of the Real Property Act, R.S.M. 1902, ch. 148; the compulsory transfer of the mortgagor's title can be accomplished only by a proceeding in the land titles office under secs. 113 and 114 of the Real Property Act (Man.).

#### 2. *Land titles—Mortgages—Under Real Property Act—Foreclosure—Procedure.*

Since the 1911 statute, 1 Geo. V. (Man.) ch. 49, the only way in which a Torrens system mortgage made under sec. 99 of the Real Property Act, R.S.M. 1902, ch. 148, can be foreclosed and the title of the mortgagor divested to the mortgagee is by a proceeding in the land titles office under secs. 113 and 114 of the Act, and not by the ordinary foreclosure action and final order of foreclosure applicable to lands not under the Torrens system.

*Smith v. National Trust Co.*, 1 D.L.R. 698, 45 Can. S.C.R. 618; and *National Bank of Australasia v. United Hand-in-Hand*